IN THE HIGH COURT OF UTTARANCHAL AT

NAINITAL

WRIT PETITION NO.3586 (M/S) OF 2001

1. State of U.P. through Secretary Irrigation Department, U.P. Govt., Lucknow.
2. The Executive Engineer, Investigation and Planning Quality Control Division (World Bank), Roorkee, District Haridwar. ..... Petitioners

Versus

1. Sri Ramesh Chandra, S/o Sri Bhagat Singh, C/o Sri Munesh Tyagi, Advocate, 10-Collectorate, Meerut.
2. The Labour Court-II, Meerut, through its Presiding Officer. ..... Respondents

Shri Nand Prasad, learned standing counsel for the petitioner.
Shri S.K. Jain, learned counsel for Respondent No.1.

Dated: 16.06.2006

Hon'ble Rajesh Tandon, J.

Heard Standing Counsel for the petitioner and Shri S.K. Jain, Advocate for the respondent no.1.

By means of this writ petition, the petitioner has prayed for a writ of Certiorari quashing the impugned award dated 12.05.1992 published on 21.09.1992 (Annexure No. 5 to the writ petition).

Briefly stated, according to the case of the petitioner, the respondent n. 1 was engaged for three months only w.e.f. 25.01.1987 and again his employment was extended for two months from 25.04.1987 to 24.06.1987 to 24.06.1987 as stop gap arrangement in investigation and Planning, Quality Control Division (World Bank), Roorkee.

However, counsel for the respondents has submitted that on 24.06.1987, the service of Respondent No.1 was terminated by the petitioner without following the provisions of Section 6-N of the U.P. Industrial Disputes Act, 1947. Feeling aggrieved, Respondent No. 1 raised the industrial dispute, which was referred in the following terms: -

> ***"Whether the termination of the services of the applicant/workman Shri Ramesh Chandra S/o Shri Bhagwat Singh Driver by the employers from 24.06.1987 is justified and/or legal? if no, to which benefit / compensation the applicant/ workman is entitled and to what extent?""***

After the receipt of the reference, the Labour Court issued notices to the parties to file their written statement/objections. The labour court after considering the oral and documentary evidency led by the parties came to a conclusion that the termination of services of Respondent No.1 was illegal and unjustified and therefore passed the order for his reinstatement with full back wages. Feeling aggrieved, this writ petition has been filed.

The Tribunal has recorded the finding to the following effect:-

"इस विषय में सर्वप्रथम यह देखना है कि यदि यह 100 1/2 दो दिन सम्बन्धित कर्मचारी के उसके लिपितक की सेवा में जोड़ दिये जाये तब उसकी सेवा 240 दिन से कहीं अधिक हो जाती है। यह सेवा उसकी सेवा समाप्ति के पूर्व 12 मासों से उसने की है। इस विषय में जहास्त्र तक निरन्तरता का प्रप्न है माननीय उच्च न्यायालय इलाहाबाद की लखन{ खंडपीठ द्वारा नरेप्र चन्द्र श्रीवास्तव तथा स्कूटर इण्डिया लिमिटेड लखन{ में दी गयी विधि व्यवस्था इस मामले पर लागू होती है जिसमें माननीय उच्चतम न्यायलय द्वारा दी गयी विधि व्यवस्थाओं का उल्लेख

किया गया है तथा यह निर्धारित किया गया है कि यदि श्रमिक ने सेवायोजक के अधीन किसी प्रकार भी 12 मासों में से 240 दिन से कम कार्य नहीं किया है तब वह चाहे लगातार नौकरी में न रहा हो निरन्तर एक वर्ष की सेवा में मान्य होगा। इस प्रकार यह सुनिश्चित हो जाता है कि उसके 240 दिन की निरन्तर सेवा सेवासमाप्ति से पूर्व 12 मासों में पूर्ण की ली थी चूंकि उसके कार्य दिवस 250 आते है।"

The Tribunal has rightly reached to the conclusion that the termination of the service of the workman Sri Ramesh Chandra S/o Sri Bhagwat Singh is not legal and proper and therefore passed the order reinstating the services of the petitioner as well as releasing the back wages and other benefits.

Respondent has placed reliance on the judgment dated 07.11.2005 passed in W.P. No. 648 of 2001 (M/S) (State of U.P. Vs. Sri Dharam Singh and another), Where reinstatement has been directed. Present writ petition is squarely covered by the aforesaid decision.

I do not find any perversity or illegality in the judgment of the learned Tribunal while holding the respondent no. 1 has worked for 240 days in a calendar year. Therefore, the impugned award does not call for any interference by this Court in exercise of its power under Article 226/227 of the Constitution of India. Moreover, no error of law in recording finding of fact by the Labour Court is pointed out.

The writ petition is devoid of merit and is dismissed as such. No order as to costs.

(Rajesh Tandon, J.)

16.06.2006
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